# 54:15B-5

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NJSA: 54:15B-5

(Petroleum gross receipts tax-exempts Federal government)

LAWS OF: 1990/

CHAPTER: 19

Bill No: A 3993

Sponsor(s): Charles and Marsella

Date Introduced: 0 ctober 4, 1990

**Committee:** Assembly: Appropriations

Senate: Revenue, Finance & Appropriations

A mended	during	passage:	No
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Date of Passage: Assembly: December 17, 1990 Senate: January 29, 1991

Date of Approval: January 31, 1991

Following statements are attached if available:

Sponsor statement: Yes

Committee Statement: Assembly: Yes

	Senate:	Yes
Fiscal Note:		No
Veto Message:		No
Message on signing:		No
Following were printed:		
Reports:		No
Hearings:		No

KBG/SLJ

§§2-4 --C.54:15B-9 to 54:15B-11 §5-Note to §§1-4

## P.L.1991, CHAPTER 19, approved January 31, 1991 1990 Assembly No. 3993

CONTROL OF

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5 6 AN ACT concerning the taxation of petroleum products purchased for use by the United States government, amending and supplementing P.L.1990, c.42.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

7 1. Section 5 of P.L.1990, c.42 (C.54:15B-5) is amended to read 8 as follows:

9 5. a. Gross receipts of a company making first sales of
10 petroleum products within this State shall not include
11 consideration derived from the first sale of petroleum products
12 within this State sold for exportation from this State for use
13 outside this State[; and].

14 b. Gross receipts of a company making first sales of petroleum 15 products within this State shall not include consideration derived from the first sale of petroleum products within this State to the 16 17 United States government, or to any of its departments, agencies 18 or instrumentalities, for use in a federal government function or operation. A company making a first sale of petroleum products 19 the gross receipts from which are exempt from tax pursuant to 20 21 this subsection shall report such sales to the director at such times and in such detail as the director may require. This 22 23 exemption may be claimed by a company otherwise subject to the tax under this act at any time within two years after the date of 24 the first sale of petroleum products within this State for which 25 26 the exemption is claimed, but no claim made after the expiration 27 of that two year period shall be recognized for any purpose by the State or any agency thereof. 28

[b.] <u>c.</u> A company shall be allowed a credit against the tax imposed by subsection a. of section 3 of this act if a purchaser of petroleum products first sold within this State subsequently sells the petroleum products for exportation from this State for use outside this State; provided:

(1) the purchaser who makes the sale for exportation from this
State for use outside this State issues a certification, on such
form as the director may prescribe, evidencing a sale outside this
State, and

(2) the company liable for the tax imposed under the provisionsof this act has paid to the purchaser making the sale outside this

EXPLANATION---Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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State an amount equal to the tax imposed on the gross receipts
 derived from the first sale of petroleum products within this
 State to such purchaser.

4 (cf: P.L.1990, c.42, s.5)

5 2. (New section) a. A person who shall purchase or otherwise acquire petroleum products, upon which the petroleum products 6 7 gross receipts tax has not been paid and is not due pursuant to 8 subsection b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon 9 which a reimbursement payment has been paid pursuant to 10 section 3 of this act, from a federal government department, 11 agency or instrumentality, or any agent or officer thereof, for 12 use not specifically associated with any federal government 13 function or operation, shall pay to the State a tax equivalent to two and three quarters percent (2 3/4%) of the consideration 14 15 given or contracted to be given for the purchase or acquisition of 16 the petroleum products in accordance with the procedures set forth in the "Petroleum Products Gross Receipts Tax Act," 17 18 P.L.1990, c.42 (C.54:15B-1 et seq.).

19 b. A person who knowingly uses, or who conspires with an official, agent or employee of a federal government department, 20 21 agency or instrumentality, for the use of, a requisition, purchase 22 order, or a card or an authority to which the person is not 23 specifically entitled by government regulations, with the intent 24 to obtain petroleum products from a federal government 25 department, agency or instrumentality for a use not specifically 26 associated with a federal government function or operation, upon 27 which the petroleum products gross receipts tax has not been 28 paid, is guilty of a crime of the fourth degree.

3. (New section) a. A federal government department, agency 29 30 or instrumentality, that purchases petroleum products other than 31 by the first sale of that product in this State for use in a federal 32 government function or operation, upon which petroleum products 33 the petroleum products gross receipts tax has been paid or is due and payable, shall be reimbursed and paid an amount equivalent 34 to two and three guarters percent (2 3/4%) of the consideration 35 given or contracted to be given by the federal government 36 37 department, agency or instrumentality for the purchase of the 38 petroleum products.

b. The reimbursement shall be claimed by presenting to the 39 Director of the Division of Taxation in the Department of the 40 Treasury an application for the reimbursement, on a form 41 42 prescribed by the director, which application shall be verified by 43 a declaration of the applicant that the statements contained 44 therein are true. Such application for reimbursement shall be supported by an invoice, or invoices, showing the name and 45 address of the person from whom the petroleum products were 46 47 purchased, the name of the purchaser, the date of purchase, the quantity of the product purchased, the price paid for the purchase 48 of the product, and an acknowledgment by the seller that 49

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payment of the cost of the product to the seller, including the
 petroleum gross receipts tax due thereon, has been made. Such
 invoice, or invoices, shall be legibly written and shall be void if
 any corrections or erasures shall appear on the face thereof.

c. If petroleum products are sold to a federal government department, agency or instrumentality that shall be entitled to a reimbursement under this act, the seller of the petroleum products shall supply the purchaser with an invoice that conforms with the requirements of subsection b. of this section.

10 4. (New section) a. Upon approval by the director of an 11 application for reimbursement, a warrant shall be drawn upon the State Treasurer for the amount of such claim in favor of the 12 claimant and the warrant shall be paid from the revenue 13 collected from the petroleum products gross receipts tax. The 14 application for reimbursement shall be filed with the director on 15 or before the last business day of the month following the 16 calendar quarter in which the petroleum products in question 17 were purchased. 18

b. A person who makes a false or fraudulent statement in an
application required for reimbursement under this act, or who
shall knowingly collect or cause to be repaid to any person or
claimant any such reimbursement without being entitled to the
same, is guilty of a crime of the fourth degree.

5. This act shall take effect immediately and reimbursements
hereunder shall apply to purchases of petroleum products made on
and after July 1, 1990.

### STATEMENT

This bill effectively exempts the government of the United 31 States from paying the petroleum products gross receipts tax on 32 the refined petroleum products the federal government purchases 33 34 for use in its government functions or operations. The petroleum products gross receipts tax is due upon the first sale of petroleum 35 products in this State. However, under this bill, if a department, 36 37 agency or instrumentality of the federal government is the first in-State purchaser, the receipt to the seller on that first sale of 38 the petroleum products is exempted from the imposition of the 39 tax, and the tax will not be passed on to federal government 40 exempt purchases. If the federal government is not the first 41 42 in-State purchaser, in the typical situation of a purchase from a retail distributor that has already paid the tax to its wholesale 43 44 refiner, the bill provides for reimbursement to the federal government for the costs of the 2.75% gross receipts tax included 45 46 in its purchase. The exemption and reimbursement provisions of the bill are based upon similar provisions extended to the federal 47 government under the motor fuels excise tax. 48

## STATE TAXATION

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Exempts federal government from petroleum products gross receipts tax and provides for reimbursement by State of amount of tax paid on federal government purchases.

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# ASSEMBLY, No. 3993

# STATE OF NEW JERSEY

#### INTRODUCED OCTOBER 4, 1990

#### By Assemblymen CHARLES and MARSELLA

AN ACT concerning the taxation of petroleum products purchased for use by the United States government, amending and supplementing P.L.1990, c.42.

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BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 5 of P.L.1990, c.42 (C.54:15B-5) is amended to read as follows:

5. a. Gross receipts of a company making first sales of
petroleum products within this State shall not include
consideration derived from the first sale of petroleum products
within this State sold for exportation from this State for use
outside this State[; and].

14 b. Gross receipts of a company making first sales of petroleum products within this State shall not include consideration derived 15 16 from the first sale of petroleum products within this State to the 17 United States government, or to any of its departments, agencies 18 or instrumentalities, for use in a federal government function or operation. A company making a first sale of petroleum products 19 the gross receipts from which are exempt from tax pursuant to 20 this subsection shall report such sales to the director at such 21 22 times and in such detail as the director may require. This 23 exemption may be claimed by a company otherwise subject to the 24 tax under this act at any time within two years after the date of the first sale of petroleum products within this State for which 25 the exemption is claimed, but no claim made after the expiration 26 27 of that two year period shall be recognized for any purpose by the 28 State or any agency thereof.

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[b.] <u>c.</u> A company shall be allowed a credit against the tax imposed by subsection a, of section 3 of this act if a purchaser of petroleum products first sold within this State subsequently sells the petroleum products for exportation from this State for use outside this State; provided:

(1) the purchaser who makes the sale for exportation from this
State for use outside this State issues a certification, on such
form as the director may prescribe, evidencing a sale outside this
State, and

(2) the company liable for the tax imposed under the provisionsof this act has paid to the purchaser making the sale outside this

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 State an amount equal to the tax imposed on the gross receipts 2 derived from the first sale of petroleum products within this 3 State to such purchaser.

4 (cf: P.L.1990, c.42, s.5)

2. (New section) a. A person who shall purchase or otherwise 5 acquire petroleum products, upon which the petroleum products 6 gross receipts tax has not been paid and is not due pursuant to 7 8 subsection b. of section 5 of P.L.1990, c.42 (C.54:15B-5) or upon which a reimbursement payment has been paid pursuant to 9 section 3 of this act, from a federal government department, 10 agency or instrumentality, or any agent or officer thereof, for 11 12 use not specifically associated with any federal government function or operation, shall pay to the State a tax equivalent to 13 two and three quarters percent (2 3/4%) of the consideration 14 15 given or contracted to be given for the purchase or acquisition of the petroleum products in accordance with the procedures set 16 forth in the "Petroleum Products Gross Receipts Tax Act," 17 P.L.1990, c.42 (C.54:15B-1 et seq.). 18

b. A person who knowingly uses, or who conspires with an 19 official, agent or employee of a federal government department, 20 agency or instrumentality, for the use of, a requisition, purchase 21 order, or a card or an authority to which the person is not 22 23 specifically entitled by government regulations, with the intent 24 to obtain petroleum products from a federal government 25 department, agency or instrumentality for a use not specifically 26 associated with a federal government function or operation, upon 27 which the petroleum products gross receipts tax has not been 28 paid, is guilty of a crime of the fourth degree.

29 3. (New section) a. A federal government department, agency or instrumentality, that purchases petroleum products other than 30 31 by the first sale of that product in this State for use in a federal 32 government function or operation, upon which petroleum products 33 the petroleum products gross receipts tax has been paid or is due 34 and payable, shall be reimbursed and paid an amount equivalent 35 to two and three quarters percent (2 3/4%) of the consideration 36 given or contracted to be given by the federal government 37 department, agency or instrumentality for the purchase of the 38 petroleum products.

b. The reimbursement shall be claimed by presenting to the 39 40 Director of the Division of Taxation in the Department of the Treasury an application for the reimbursement, on a form 41 42 prescribed by the director, which application shall be verified by 43 a declaration of the applicant that the statements contained therein are true. Such application for reimbursement shall be 44 45 supported by an invoice, or invoices, showing the name and 46 address of the person from whom the petroleum products were 47 purchased, the name of the purchaser, the date of purchase, the 48 quantity of the product purchased, the price paid for the purchase 49 of the product, and an acknowledgment by the seller that

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payment of the cost of the product to the seller, including the petroleum gross receipts tax due thereon, has been made. Such invoice, or invoices, shall be legibly written and shall be void if any corrections or erasures shall appear on the face thereof.

5 c. If petroleum products are sold to a federal government 6 department, agency or instrumentality that shall be entitled to a 7 reimbursement under this act, the seller of the petroleum 8 products shall supply the purchaser with an invoice that conforms 9 with the requirements of subsection b. of this section.

4. (New section) a. Upon approval by the director of an 10 application for reimbursement, a warrant shall be drawn upon the 11 State Treasurer for the amount of such claim in favor of the 12 claimant and the warrant shall be paid from the revenue 13 collected from the petroleum products gross receipts tax. The 14 application for reimbursement shall be filed with the director on 15 or before the last business day of the month following the 16 calendar quarter in which the petroleum products in question 17 were purchased. 18

b. A person who makes a false or fraudulent statement in an
application required for reimbursement under this act, or who
shall knowingly collect or cause to be repaid to any person or
claimant any such reimbursement without being entitled to the
same, is guilty of a crime of the fourth degree.

5. This act shall take effect immediately and reimbursements
hereunder shall apply to purchases of petroleum products made on
and after July 1, 1990.

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#### STATEMENT

31 This bill effectively exempts the government of the United 32 States from paying the petroleum products gross receipts tax on 33 the refined petroleum products the federal government purchases 34 for use in its government functions or operations. The petroleum 35 products gross receipts tax is due upon the first sale of petroleum 36 products in this State. However, under this bill, if a department, 37 agency or instrumentality of the federal government is the first 38 in-State purchaser, the receipt to the seller on that first sale of 39 the petroleum products is exempted from the imposition of the 40 tax, and the tax will not be passed on to federal government 41 exempt purchases. If the federal government is not the first 42 in-State purchaser, in the typical situation of a purchase from a 43 retail distributor that has already paid the tax to its wholesale 44 refiner, the bill provides for reimbursement to the federal government for the costs of the 2.75% gross receipts tax included 45 46 in its purchase. The exemption and reimbursement provisions of 47 the bill are based upon similar provisions extended to the federal 48 government under the motor fuels excise tax.

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STATE TAXATION

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Exempts federal government from petroleum products gross
 receipts tax and provides for reimbursement by State of amount
 of tax paid on federal government purchases.

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### STATEMENT TO

# ASSEMBLY, No. 3993

# STATE OF NEW JERSEY

### DATED: DECEMBER 3, 1990

The Assembly Appropriations Committee reports favorably Assembly Bill No. 3993.

Assembly Bill No. 3993 exempts the federal government from paying the petroleum products gross receipts tax on the refined petroleum products which it purchases for use in its governmental functions and operations. The petroleum products gross receipts tax is due upon the first sale of petroleum products in this State. However, under this bill, if a department, agency or instrumentality of the federal government is the first in-State purchaser, the receipt to the seller on that first sale of the petroleum products is exempted from the imposition of the tax, and the tax will not be passed on to federal government exempt purchases. If the federal government is not the first in-State purchaser, in the typical situation of a purchase from a retail distributor that has already paid the tax to its wholesale refiner, the bill provides for reimbursement to the federal government for the costs of the gross receipts tax included in its purchase. The exemption and reimbursement provisions of the bill are based upon similar provisions extended to the federal government under the motor fuels excise tax.

#### FISCAL IMPACT

Without any statistical information to formulate an accurate estimate, and with the Middle-East crisis compounding oil prices, it has been stated that \$13.5 million would be lost through this exemption.

#### SENATE REVENUE, FINANCE AND APPROPRIATIONS COMMITTEE

### STATEMENT TO

# ASSEMBLY, No. 3993

# STATE OF NEW JERSEY

#### DATED: JANUARY 24, 1991

The Senate Revenue, Finance and Appropriations Committee reports favorably Assembly Bill No. 3993.

Assembly Bill No. 3993 effectively exempts the federal government from paying the petroleum products gross receipts tax on the refined petroleum products which it purchases for use in its governmental functions and operations. The petroleum products gross receipts tax is due upon the first sale of petroleum products in this State. However, under this bill, if a department, agency or instrumentality of the federal government is the first in-State purchaser, the receipts to the seller on that first sale of the petroleum products are exempt from the imposition of the tax, and the tax will not be passed on to federal government exempt purchases. If the federal government is not the first in-State purchaser, in the typical situation of a purchase from a retail distributor that has already paid the tax to its wholesale refiner, the bill provides for reimbursement to the federal government for the costs of the gross receipts tax included in its purchase. The exemption and reimbursement provisions of the bill are based upon similar provisions extended to the federal government under the motor fuels excise tax.

This bill is identical to Senate, No. 3253 of 1991.

### FISCAL IMPACT

The Office of Legislative Services estimates that approximately 9% of the revenues generated by the petroleum products gross receipts tax (P.L.1990, c.42) results from sales to the federal government. The FY91 budget certifies total revenues from the petroleum products gross receipts tax at \$150 million. Based on these estimates, the exemption provided in this bill will reduce State revenues in FY91 by \$13.5 million.